IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO.17095 of 2004

Between:

Sk.Jaleeluddin, S/o Shaik Imam,
E.No.305207, R/o 1-4-449,
Near Sarbathi Canal, Bodhan,

Nizamabad District.

..... PETITIONER

AND

1. APSRTC, Musheerabad, Hyderabad

rep. by its Managing Director.
2. APSRTC, Nizamabad Region, Nizamabad,

rep., by its Regional Manager.
3 APSRTC, Bus Depot, Bodhan, Nizamabad District

rep., by its Depot Manager.

.....RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of Writ of Mandamus declaring the action of the respondents' Corporation in not adding the notional increments for the out of service period i.e., 11-03-1997 to 07-01-2002 as arbitrary, unjust, and in violation of Art.14, 16 & 21 of the Constitution of India, also

contrary to the purport of the award in I.D.No.35 of 1998 and consequently direct the respondents to arrange the re-fixation of pay duly adding the notional increments for the above period along with all consequential benefits in the interest of justice and fair play.

Counsel for the Petitioner:MR.V.NARASIMHA GOUD, Advocate

Counsel for the Respondent No.: MR.V.T.M.PRASAD, Advocate

The Court made the following :

O R D E R:

The petitioner is working as a driver in the respondent-A.P.S.R.T.Corporation. He entered into service of respondent-Corporation in the year 1985. His service was regularized w.e.f., 01-07-1987. He was kept under suspension on 11-3-1997 on the ground that he caused an accident. Subsequently, he was removed from service vide order dated 06-01-1998. The petitioner raised I.D.No.35 of 1998 before the labour Court-II, Hyderabad. The labour Court passed an award on 27-08-2001, setting aside the order of removal and directed the respondent-Corporation to reinstate the petitioner into service with continuity of service but without back wages and further directed to stop three increments with cumulative effect after reinstatement. Though, the respondent-Corporation reinstated him into service on 08-1-2002, they did not implement the order in *toto* regarding the notional increments for the period he was out of service. The petitioner therefore, approached this Court seeking a direction to the respondent-Corporation to add the notional increments for the period he was out of service and to fix his pay according to the rules.

The Respondent-Corporation opposed the petition on the ground that the petitioner is not entitled for notional increments for the period he was out of service by virtue of judgment of the Supreme Court in **A.P.S.R.T.C v. S.NARSA GOUD.**

The learned counsel for the petitioner submitted that the Supreme Court in the case before it was dealing with a question relating to the period of unauthorized absence. Therefore, the decision of the Supreme Court is not applicable to the facts of this case. The learned counsel for the petitioner further submitted that the facts of this

case are squarely covered by an unreported judgment of a Division Bench of this Court dated 22-06-2004 in W.A.No.945 of 2004 and requested to extend the benefit of notional increments. The Division Bench of this Court in the W.A.No.945 of 2004 observed that since the labour Court denied only back wages and maintained continuity of service, the employees are entitled for notional increments and the Tribunal has correctly granted the same which was confirmed by the learned single judge.

In the present case also the petitioner was removed from service on the ground that he committed an accident. The labour Court while setting aside the order of removal ordered reinstatement of the petitioner with continuity of service but without back wages. In the light of the judgment of the Division Bench as mentioned above and in the light of the facts and circumstances of the case, the petitioner is entitled for the notional increments for the period he was out of service from 11-3-1997 to 7-1-2002. The respondents are therefore, directed to workout the notional increments and fix the pay of the petitioner by adding those increments notionally from the date he was out of service and pass orders within three months.

Accordingly, the Writ Petition is disposed of. No order as to costs.

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23rd September, 2004.

Mrb

ASSISTANT REGISTRAR

To

1. The Managing Director
   APSRTC, Musheerabad, Hyderabad.
2. The Regional Manager,
   APSRTC, Nizamabad Region,
   Nizamabad District.
3. The Depot Manager,

APSRTC, Bus Depot, Bodhan, Nizamabad District

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